

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

---

IN RE BARD  
IVC FILTERS PRODUCTS LIABILITY  
LITIGATION MDL

---

2:15-md-02641-DGC  
MDL No: 2641

This Document Relates to Plaintiff:

KAREN SMITH

Civil Case # 2:19-cv-00262-DGC

---

**MOTION TO SUBSTITUTE PARTY PLAINTIFF**  
**AND FOR LEAVE TO AMEND SHORT FORM COMPLAINT**

COMES NOW, Plaintiff, KAREN SMITH, by and through her undersigned counsel, and hereby files her MOTION TO SUBSTITUTE PARTY PLAINTIFF AND FOR LEAVE TO AMEND SHORT FORM COMPLAINT. Plaintiff states as follows:

1. Plaintiff, by and through her undersigned counsel, filed her Short Form Complaint against Defendants on January 15, 2019, in the District of Arizona MDL No. 2641.
2. Unbeknownst to Plaintiff's Counsel, Plaintiff died on November 5, 2018.
3. On August 16, 2019, Emmett Smith was duly appointed as the Independent Administrator of Plaintiff's estate and is the proper party to substitute for Plaintiff pursuant to Rule 25(a)(1) of the Federal Rules of Civil Procedure: "If a party dies and the claim is not extinguished, the Court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative." (See Order Appointing Independent Administrator and Authorizing Issuance of Letters of Independent Administration, attached hereto as "Exhibit A").

4. Independent Administrator for the Estate of Karen Smith, Emmett Smith, further seeks leave to file the attached First Amended Short Form Complaint to substitute himself as Plaintiff on behalf of the estate of Karen Smith. (See First Amended Short Form Complaint, attached hereto as "Exhibit B").
5. This Motion is not made for the purpose of undue delay or to prejudice any other party subject to this suit.

WHEREFORE, Plaintiff, KAREN SMITH, respectfully requests this Court GRANT her Motion to Substitute Party Plaintiff and for Leave to Amend Short Form Complaint, substituting Independent Administrator for the Estate of Karen Smith, Emmett Smith, as Plaintiff in this action, directing the Clerk to file the attached First Amended Short Form Complaint, and any other relief this Court deems just and reasonable.

Respectfully Submitted,

*/s/ Robert J. Fenstersheib*

---

Robert J. Fenstersheib  
Florida Bar #307300  
Fenstersheib Law Group, P.A.  
520 Hallandale Beach Blvd.  
Hallandale, FL 33009  
P: (954) 456-2488  
F: (954) 212-2757  
Email: [rjf@fenstersheib.com](mailto:rjf@fenstersheib.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on August 19, 2019, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

*/s/ Robert J. Fenstersheib*

---

Robert J. Fenstersheib  
Florida Bar #307300  
Fenstersheib Law Group, P.A.  
520 Hallandale Beach Blvd.  
Hallandale, FL 33009  
P: (954) 456-2488  
F: (954) 212-2757  
Email: [rjf@fenstersheib.com](mailto:rjf@fenstersheib.com)